

Proposal for an ECPR workshop in Grenoble 2005

From David Arter, University of Aberdeen, Scotland, artere@fennoscan.u-net.com

Matti Wiberg, University of Turku, Finland, wiberg@utu.fi

Evaluating, Comparing and Classifying Legislatures

Outline of the topic

The last quarter of a century has witnessed voluminous work in the legislative studies field. There has been research on national parliaments, especially those in Western Europe; the creation of a purpose-specific outlet in the form of *The Journal of Legislative Studies*; and, most recently, analyses of post-communist democratic parliaments in central and eastern Europe. Interest has also grown in the sub-state (devolved) assemblies in the UK, Spain and elsewhere and the legislative specialists within IPSA are planning a conference on this theme in Quebec in September 2004. There is also now an ECPR Standing Group on Parliaments. But what do we know about legislatures? And are there clear criteria for approaching an evaluation, comparison and classification of parliaments in the modern world? This workshop would assess the state of legislative research and focus on ‘big picture’ evaluation, comparison and classification of legislatures.

Relation to existing research

How much do we know about legislatures? The answer is ‘quite a lot’ whilst at the same time ‘not very much’. Samuel Patterson has rightly observed that: “In one sense, much is known about [parliaments or legislatures], especially about the British Parliament and the United States Congress, but in another sense, much is left to be learned”. (Patterson 1995:10) What is known?

- 1) The conventional wisdom is that the American Congress is *sui generis*. It has large, well-resourced committees, which divide into, and operate as sub-committees for much of the time, and is less party-dominant than the typical West European assembly although, it seems, the party caucuses are growing in importance. (Davidson 1998) For example, Cox and Mc Cubbins' research indicates that the party caucuses [parliamentary party groups – PPGs] have a significant role in selecting committee memberships. (Cox and Mc Cubbins 1993) The US Congress is widely assumed to be an unequivocal case of a *policy-making assembly* in Philip Norton's terms. (Norton 1990) But how much policy does it really make and how exactly does it make it? The plethora of congressional studies cries out for a demystifying and demythologising 'wide lens' analysis, which sets the American case in a comparative framework. It has for too long been studied in not so splendid isolation.
- 2) The established orthodoxy is that Western Europe comprises a bloc of *policy-influencing assemblies*, some (Sweden for instance) exerting more influence than others (Arter 1990), but none exercising all that much influence. The assumption is that the parliaments of Western Europe have only a modest decisional or law-making function. According to Norton: "In studying the legislatures of Western Europe, we are seeking to identify to what extent they retain the capacity to exert a modest influence in the policy cycle". (Norton 1990: 5) But how is that influence brought to bear and what explains the cross-national variations?
- 3) The parliaments in the former communist states of central and eastern Europe were widely regarded as *policy legitimising assemblies*. They were typified by short sessions of a highly ritualistic character, designed simply to rubber-stamp decisions taken by the ruling party. The focus of the work in the post-communist democracies has been on legislatures as agents of regime support. Put another way, the thrust of the research has not been on the impact of the newly restored legislatures on legislation/public policies, but on their role in the legitimisation and consolidation of democracy. It is not clear whether, in the early decades of regime transition, and with weak or fluid party systems, the central and east European parliaments are policy-making or policy-influencing or indeed something else.

- 4) It seems to us (Arter & Wiberg) that the body of legislative studies research can be considered in relation to three categories. First, there is *the legislative capacity* of parliaments, that is the formal constitutional/legal rules and structures (the ‘inputs’) that give an assembly differential potential to exert influence in the policy process. (See also Döring & Hallerberg 2004) For example, in some parliaments, such as Iceland, Austria, and to a lesser extent Finland and Switzerland in Western Europe, and in several central and east European parliaments, the standing committees have the right of initiative (Arter 2004). This may either take the form of a committee bill or a request for a commission of inquiry and, either way, the committee is vested with the potential to be an independent legislative actor.
- 5) Next there is the *legislative operation* of the assembly, that is the way the parliaments work in practice (the ‘withinput’ stage). The focus here is *inter alia* on the dynamic interface between the executive and backbench members of the governing parties; the standing committees and the parliamentary party groups and, more widely, the relations between government and opposition. (King 1976; Wiberg (ed.) 1994; Damgaard 2000) Clearly, these will vary contingent on whether the executive has majority or only minority support in the legislature.
- 6) Third, there is the *legislative performance* of the assembly (the ‘output’ stage). It seems to us that only really by analysing and comparing the legislative performance of assemblies can we come to tentative conclusions about their relative strength and weakness and the extent of their *policy power*. The assumption is that, to cite David Olson, “in most cases the 90 per cent rule applies with 90 per cent of legislative activity being initiated by the executive, which gets 90 per cent of what it wants”. (Olson and Norton 1996: 7). An immediate response would be that the Icelandic *Althingi* and the new Scottish Parliament give the lie to this assertion. (Arter 2003) But the real challenge is to devise and systematically to test a series of indicators or instruments with which to assess the legislative performance of parliaments. Clearly, a longitudinal perspective is essential. In other words, a sufficiently generous time frame is necessary so to facilitate the cartography of legislative change. We will return to the question of measuring legislative performance shortly.

- 7) Several broad themes have emerged from the multifarious studies bearing on the ‘legislative capacity’ and ‘legislative operation’ of democratic assemblies. Above all, the West European states are presented as ‘party democracies’, with the parliamentary party groups depicted as the pre-eminent legislative actors and, accordingly, the levels of party cohesion high. (Hazan 2004; Heidar and Koole 2000; Helms 2000). Executive leaders (the German Chancellor), for example, are in practice dependent on the support of their parliamentary groups. (Saalfeld 1990:72) A few studies – notably Magnus Isberg’s interviews with veteran members of the Riksdag PPGs in Sweden – have given an insight into the internal organisation and authority structures within PPGs. (Isberg 1999) But for all the recent literature very little is known about the internal dynamics of the secret world of parliamentary party groups.
- 8) The formal powers and functions of parliamentary standing committees goes some way to determining the legislative capacity of assemblies. Outside Britain and France, the legislatures of both ‘Europes’ have multifunctional specialist standing committee systems (Strøm 1998) and in many cases there is a growing emphasis on non-legislative and post-legislative scrutiny, in addition to the deliberation of bills. In practice, it is widely held, the strength and autonomy of committees will be inversely proportional to the strength of the political parties. As Malcolm Shaw has asserted: “When parties exert only a weak control over legislative committees, the committees are free to develop a life of their own and to make a strong contribution to the outputs of the legislature”. (Shaw 1998: 228) Ultimately, the standing committees in the West European parliaments appear to be of the ‘permeable’ rather ‘corporate’ variety in Loewenberg and Patterson terms. (Loewenberg and Patterson 1979)
- 9) Equally, party roles and committee roles are usually complementary and mutually reinforcing rather than exclusive and contradictory. Members of parliament develop an expertise and operate alongside departmental civil servants and outside specialists in policy communities. At work, the legislature is segmented into numerous policy communities (Damgaard 1977; Rasch ; Shaw 1998) and members of these policy communities dominate the plenary deliberation of matters, as well as in committee. “Legislatures not only have committees systems at a structurally devolved level, but

they also have structured committees at the plenary level.” (Shaw 1998: 226; Wiberg and Mattila 1997)

- 10) In their working over time, parliaments develop a distinctive legislative culture – a basic corpus of norms governing individual and collective legislative behaviour – and this is moulded by factors such as tradition, the party system and the legislative-executive balance. The adversarialism of Westminster, although probably exaggerated, stands at one extreme. Elsewhere, there may be more of a ‘bargaining culture’ (Stenelo and Jerneck 1996; Sannerstedt 1996), especially when the legislative-executive balance inclines towards parliament as in the case of the routine minority governments in the ‘metropolitan’ Scandinavian states of Denmark, Norway and Sweden. The impact of party system change on the legislative culture is a theme propounded by several authors. The impact of new parties – for example the Greens in the [West] German Bundestag between 1983-87 and the Progress Party in Norway from the mid-1980s – are cases in point. (Saalfeld 1990; Rommetvedt 2003)
- 11) Parliaments vary in their relationships to civil society. Some are considerably more open and accessible than others. Notably in Germany, but also in Scotland, many post-communist parliaments and Portugal (until 1995), Petitions Committees serve as a direct link between society and the legislative arm of the state. The popular status of parliaments is not always that high. However, the importance of assessing legislative support on the basis of the different functions performed by parliament warrants emphasis. (Leston-Bandeira 2002:85)
- 12) Work on the post-communist democracies has pointed to the way weak or atomised party systems and generally low levels of committee incumbency have retarded the process of committee institutionalisation in these legislatures. (Olson and Crowther 2002) However, the notion of ‘institutionalisation’ is effectively synonymous with ‘Westernisation’ and lacks refinement.
- 13) Knowledge of the legislative capacity of parliaments and the way they operate – although patchy – has grown significantly over the last quarter of a century. However, the systematic comparison of legislatures, leading to tentative classification, remains highly underdeveloped. Is the US Congress really a legislating or policy-making assembly? Are the differences between it and the standard policy influencing

assembly in Western Europe differences of degree or differences of kind? Moreover, is the assumption of modest decisional influence a justifiable characterisation of the West European assemblies? For example, is the French National assembly as weak as it is usually thought to be? What, ultimately, is the difference between a policy-making and a policy-influencing parliament? How has the European Union affected national parliaments? (Wiberg ed. 1997)

The Specific Workshop Research Questions

In Philip Norton's introduction to a series of seminal essays on *Legislatures and Legislators* in the Ashgate International Library of Politics and Comparative Government in 1998, there are sections on 'the complexity of legislatures', 'institutionalisation' and 'legislators and legislation' but, curiously, nothing on evaluating, comparing and classifying legislatures. (Norton 1998) Indeed, apart from his own work in the area, the bulk of the work on classifying legislatures dates back to the 1970s.

Thus, Nelson Polsby in 1975 portrayed a spectrum of parliaments, ranging from 'arena legislatures' or 'legitimising assemblies', which are merely debating or ratifying bodies, to 'transformative legislatures' or 'policy-making legislatures', which possess the independent capacity to mould and transform proposals into law. (Polsby 1975) Michael Mezey's six-fold classification of legislatures in 1979 is based on two variables – the extent of policy-making power and the extent of popular support for the institution. (Mezey 1979) For instance in contrast to the powerful and well-supported 'active legislatures', the Latin American legislatures have traditionally been view as 'marginal legislatures' possessing only modest policy-making power and enjoying little support among the political elites. (Taylor-Robinson and Sky Davis 2002: 10) Lowenberg and Patterson's *Comparing Legislatures*, also published in 1979, contains a four-category classification – 'legislating assemblies', 'deliberating assemblies', 'integrating assemblies' and 'legitimising assemblies' – based principally on the "policy-making importance" of the assembly. (Loewenberg and Patterson 1979: 197-198). They add the caveat that whilst classifying legislatures in terms of their policy-making importance

highlights national differences, it also exaggerates these differences. (Loewenberg and Patterson 1979: 198)

The common denominator – the central, albeit not the sole criterion – in establishing types of legislatures has been the degree to which they can exert policy power independent of the executive. In our view, the problem with existing classifications of legislatures is not the core perspective – clearly legislatures have to do with making law, however tenuously in some cases – so much as the absence of clear indicators for the systematic measurement of their legislative power. How, for example, is a ‘transformative assembly’ to be operationalised and how are we to approach an evaluation of the extent to which legislatures move from the ‘policy influencing’ to the ‘policy making category or indeed vice versa?

The need for systematically comparative indicators and, by extension, data is well brought out in Philip Cowley’s review of the volume edited by Bowler, Farrell and Katz on *Party Discipline and Parliamentary Government*. In his words, “the chapters....utilize different types of data (of differing quality) over different time periods and in very different ways. As a result, comparisons across nations are currently next to impossible to perform”. (Cowley 2000: 124) What is needed, therefore, is a comparative framework for the assessing the policy power of legislators. We need one to appraise *inter alia* the validity of Jean Blondel’s proposition – expressed in the language of the 1970s – that “in the best cases, ‘assembly power’ constitutes only a limited contribution to rule-making”. (Blondel 1969: 355) We need one to test the validity of statements such as “not more than perhaps 4 or 5 per cent of the rule-making [close to, but none quite synonymous with law-making] can be ascribed to the British parliament or to most parliaments of Western Europe”. (Blondel 1969: 356)

Accordingly, the proposed ECPR Workshop on ‘Evaluating, Comparing and Classifying Legislatures’ will address three related questions:

- a) Do legislatures matter in legislative terms and, if so, how much?
- b) What is the extent of the legislature’s control over the legislative process?

- c) How can we evaluate, compare and classify legislatures on the basis of their relative legislative performance?

Participants and Type of Paper

The principal objective of the proposal is ‘big picture’ analysis. Participants would be expected briefly to describe what is known about the legislative capacity and legislative operation of the assembly(ies) in question – an extrapolation of the main findings from the existing literature – and then concentrate on the matter of legislative performance. A longitudinal perspective is essential, although the starting point will vary – it may be the advent of a new constitution redefining the role and functions of the new parliament, the shift to unicameralism or some other significant turning point.

The workshop is designed to attract an eclectic mix of academics. It particularly hopes to attract younger researchers concerned to challenge the conventional wisdom and those able to write critical national and/or comparative case studies. Shorter ‘work-in-progress’ think-pieces will also be welcome.

The recruitment potential should be large enough given the enthusiastic reaction to the creation of the ECPR Standing Group on Parliaments.

Biographical notes

David Arter holds the First Chair in Politics at the University of Aberdeen, Scotland. He has written extensively on the legislative politics of Scotland and Scandinavia. Professor Arter is a Knight (First Class) of the Order of the White Rose of Finland, contributes regularly to *The Economist* and is presently researching a book on political oppositions in the Scandinavia countries. He recently organised a ESRC-funded Scottish-Scandinavian parliamentary committee workshop in the Scottish Parliament.

Matti Wiberg is professor of Political Science at the University of Turku, Finland. He has published eight monographs and edited a dozen other books as well as published some 150 scientific articles on various aspects of politics. Professor Wiberg is the youngest social scientist in the Finnish Academy of Sciences and he contributes regularly to the leading Finnish newspapers. He is also the co-convener of the recently established ECPR Standing Group on Parliaments.

References

- Arter, D. 'The Swedish Riksdag: The Case of a Strong Policy-Influencing Assembly', in P. Norton (ed), *Parliaments in Western Europe* (London and Portland, OR: Frank Cass, 1990), pp.120-142
- Arter, D. *The Scottish Parliament. A Scandinavian-style Assembly?* (London and Portland, OR: Frank Cass, 2004)
- Arter, D. 'Committee cohesion and the 'corporate dimension' of parliamentary committees: a comparative analysis' *The Journal of Legislative Studies* 2004
- Blondel, J. *Comparative Legislatures* (Englewood Cliffs, NJ: Prentice Hall, 1973)
- Cox, G.W. and M.D. Cubbins, *Legislative Leviathan: Party Government in the House* (Berkeley, CA: University of California Press, 1993)
- Campbell, C.C. and R.H. Davidson, 'US Congressional Committees: Changing Legislative Workshops' in L.D. Longley and R.H. Davidson (eds), *The New Roles of Parliamentary Committees* (London and Portland, OR: Frank Cass, 1998), pp. 124-142
- Damgaard, E. 'Parliament and Government', in P. Esaiasson and K. Heidar (eds), *Beyond Westminster and Congress The Nordic Experience* (Columbus: Ohio State University Press, 2000), pp. 265-280
- Damgaard, E. *Folketinget under forandring* (Samfundsvideenskabeligt Forlag: Copenhagen, 1977)
- Döring, H. & M.Hallenberg (eds), *Patterns of Parliamentary Behaviour* (Ashgate: Aldershot, 2004)

Hazan, R (ed),

Heidar, K. and R.Koole (eds), *Parliamentary Party Groups in European Democracies* (London and New York, Routledge, 2000)

Helms, L. ‘Parliamentary Party Groups and their Parties: A Comparative Assessment’ *The Journal of Legislative Studies* 6, 2, 2000, pp.104-120

Isberg, M. *Riksdagledamoten i sin partigrupp* (Södertälje: Gidlunds Förlag, 1999)

King, A. ‘Modes of Executive-Legislative Relations: Great Britain, France and West Germany’ *Legislative Studies Quarterly* 1, 1976, pp.11-16

Leston-Bandeira, C. ‘The Portuguese Parliament and Public Opinion: A Case for Reform?’ *The Journal of Legislative Studies* 8, 2, 2002, pp.77-92

Loewenberg, G. and S.C. Patterson, *Comparing Legislatures* (Little, Brown and Company: Boston and Toronto, 1979)

Mezey, M.L. *Comparative Legislatures* (Durham NC: Duke University Press, 1979)

Patterson, S.C. ‘Legislative Institutions and Institutionalism in the United States’ *The Journal of Legislative Studies* 1, 4, 1995, pp.10-29

Norton, P. ‘Parliaments: A Framework for Analysis’, in P. Norton (ed), *Parliaments in Western Europe*, pp. 1-9

Norton, P. ‘Introduction’, in P. Norton (ed), *Legislatures and Legislators* (Dartmouth: Ashgate, 1998), pp. xiii-xxiii

Olson, D.M. and P. Norton, ‘Legislatures in Democratic Transition’ *The Journal of Legislative Studies* 2, 1, 1996, pp. 1-15

Olson, D.M. and W.E. Crowther (eds), *Committees in Post-Communist Democratic Parliaments: Comparative Institutionalisation* (Columbus: The Ohio State University Press, 2002)

Polsby, N. ‘Legislatures’, in F.Greenstein and N. Polsby (eds), *Handbook of Political Science* (Reading MA: Adison-Wesley, 1975) Volume 5

Rommetvedt, H. *The Rise of the Norwegian Parliament* (London and Portland, OR: Frank Cass, 2003)

Saalfeld, T. ‘The West German Bundestag After 40 Years: The Role of Parliament in a ‘Party Democracy’ ‘, in P. Norton (ed), *Parliaments in Western Europe*, pp. 68-89

Sannerstedt, A. 'Negotiations in the Riksdag' in L.-G. Stenelo and M.Jerneck (eds), *The Bargaining Democracy* (Lund: Lund University Press, 1996), pp. 17-58

Schwartz, J.E. 'Exploring a New Role in Policy Making: The British House of Commons in the 1970s' *American Political Science Review* 74, 1980, pp.23-37

Strøm, K. 'Parliamentary Committees in European Democracies' in L.D. Longley and R.H.Davidson (eds), *The New Roles of Parliamentary Committees*, pp.21-59

Shaw, M. 'Parliamentary Committees: A Global Perspective', in L.D. Longley and R.H. Davidson (eds), *The New Roles of Parliamentary Committees*, pp. 225-251

Wiberg, M. (ed.): *Political Control in the Nordic Countries: Forms of Questioning and Behavioural Trends*, The Finnish Political Science Association: Jyväskylä 1994.

Wiberg, M. (ed.): *Trying to Make Democracy Work: The Nordic Parliaments and the European Union*. Gidlunds: Stockholm 1997

Wiberg, M. and M. Mattila Committee Careers in the Finnish Parliament, 1945-1994, pp. 167-179 in Agh, Attila and Longley, Lawrence (eds): *The Changing Role of Parliamentary Committees*, International Political Science Association, Research Committee of Legislative Specialists: Appleton 1997